

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

| | | |
|------------------------------|---|--------------------------|
| JOHN R. SCHOTT, personal |) | |
| representative of the Estate |) | |
| of John C. Schott, |) | |
| |) | |
| Plaintiff, |) | Civil Action No. 03-350 |
| |) | |
| v. |) | Judge McVerry |
| |) | Magistrate Judge Caiazza |
| WESTMORELAND REGIONAL |) | |
| HOSPITAL and JAMES MILLWARD, |) | |
| M.D., |) | |
| |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM ORDER

On March 13, 2003, this case was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C.

§§ 636(b)(1)(A) and (B), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

On January 11, 2006, the magistrate judge issued a Report (Doc. 86) recommending that the Defendants' Motion for Summary Judgment (Doc. 67) be denied and this case dismissed without prejudice to refile in state court.

Service of the Report and Recommendation was made on the parties, and no objections have been filed. After a review of the pleadings and documents in the case, together with the Report and Recommendation, the following Order is entered:

AND NOW, on this 31st day of January, 2006, IT IS HEREBY ORDERED that the Defendants' Motion for Summary Judgment (**Doc. 67**) is **DENIED**, and this case is **DISMISSED** without prejudice to refiling in state court.

The Report and Recommendation of Magistrate Judge Caiazza dated January 11, 2006 is hereby adopted as the opinion of the District Court, and the Clerk is directed to mark this case closed.

BY THE COURT:

s/ Terrence F. McVerry
United States District Judge

cc: Thomas B. Anderson, Esq.
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